



FILED

05/02/22

04:26 PM

R2103011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Implement Senate Bill 520 and
Address Other Matters Related to
Provider of Last Resort.

Rulemaking 21-03-011

**RULING OF THE ASSIGNED COMMISSIONER AND
ASSIGNED ADMINISTRATIVE LAW JUDGE REQUESTING
COMMENTS ON FINANCIAL SECURITY REQUIREMENTS AND
REENTRY FEES, AND MODIFYING THE PROCEEDING SCHEDULE**

This ruling seeks party input on modifications and updates to the Financial Security Requirement and reentry fees for mass involuntary customer returns. In addition, this ruling modifies the schedule and anticipated activities for Phase 1 of this proceeding.

1. Background

As set forth in the November 16, 2021 Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo), the preliminary schedule for Phase 1 of this proceeding includes issuance of a Phase 1 interim decision, followed by additional workshops/comments/other as needed, and then a Phase 1 decision. The Phase 1 schedule also cites the need for multiple workshops, comments, and potential evidentiary hearings, and anticipates Phase 1 of the proceeding to be concluded no later than 24 months from the issuance date of the Scoping Memo.¹

¹ Scoping Memo at 8-9.

Through the course of two public workshops, and in response to Administrative Law Judge (ALJ) rulings seeking further party comment in Phase 1 of the proceeding, parties have put forward a range of proposals and recommendations concerning the definitions and rules governing the Provider of Last Resort (POLR); resource availability and contract assignment/Right-of-First Refusal; POLR liquidity needs; and risk management and financial reporting, among others. In addition, although the ALJ's February 24, 2022 ruling indicates that modifications to the Financial Security Requirement (FSR), reentry fees, and the deregistration process will be addressed through a subsequent ruling,² several parties addressed or referenced these issues in their written comments.

2. FSR Methodology and Calculation of Reentry Fees

Consistent with the ALJ's February 24, 2022 ruling, parties are invited to respond to the following questions concerning potential modifications to the FSR methodology and calculation of reentry fees. Opening comments shall be filed and served no later than May 26, 2022; reply comments shall be filed and served no later than June 10, 2022.

2.1. FSR Methodology Refinements

Incremental Procurement

- a. There appears to be consensus among parties that the FSR calculation should use the most up-to-date Power Charge Indifference Adjustment (PCIA) market price benchmark in valuing the Renewables Portfolio Standard (RPS) and Resource Adequacy (RA) components. Does any party object to this change? If so, why?
- b. Should the FSR calculation account for Voluntary Allocation and Market Offer (VAMO) resources, Cost

² See ALJ's February 24, 2022 Ruling Distributing Workshop Agenda and Providing Questions for Additional Post Workshop Comments at 2.

- Allocation Mechanism (CAM) resources, and/or Demand Response (DR) related RA allocations? If so, please describe how these adjustments should be reflected in the FSR/reentry fee calculation, being as specific and detailed as possible, and using examples where relevant.
- c. In comments, several parties recommend limited RA, RPS, and/or Integrated Resource Plan (IRP) waivers be provided as part of POLR service. To the extent one or more of these waivers are applied, should the application of these waivers be reflected in the FSR procurement/reentry fee calculation? If so, how? Please be as specific and detailed as possible.

Revenues

- d. If the POLR is already receiving revenue from departed customers through the PCIA charge prior to mass involuntary migration, should the calculation of incremental generation revenues received by the POLR incorporate these existing PCIA obligations? Why or why not? If so, please describe how the existing FSR calculation should be modified, being as specific and detailed as possible.
- e. Should the FSR calculation include one or more of the following modifications intended to further improve the accuracy of forecast generation rate revenue? For each modification, please indicate why or why not; the source of the updated data; as well as how, specifically, the changes would be incorporated into the revenue component of the FSR calculation.
- Average customer rates by class for each CCA;
 - Seasonal changes in generation rates; and
 - Future rate changes that have been approved by the Commission.
- f. To account for potential timing differences between a mass involuntary return and the POLR receiving generation revenues from those returned customers, should some amount of generation revenue be backed out of the FSR

calculation? Why or why not? If revenues should be backed out, what timeframe/method should be used? Please be as specific and as detailed as possible.

Administrative Costs

- g. Does the current calculation of administrative costs adequately cover actual administrative costs that would be incurred in the event of a mass involuntary customer return? If not, what other costs need to be considered?
- h. Do the current minimum FSR amounts (*i.e.*, \$147,000 per CCA, and a per-customer administrative fee for residential and small commercial Direct Access customers)³ accurately reflect the actual administrative costs associated with a mass involuntary return of customers? If not, how should the FSR minimum amounts for CCAs and ESPs be calculated?
 - In your response, please consider potential differences in the scale and attributes of returning customers; whether or not the net system RA calculation should have a floor of zero megawatts; and whether administrative costs should be calculated in the same manner for CCAs and ESPs.

Other

- i. Are any other modifications necessary to ensure the FSR and reentry fees accurately reflect the cost of returning customers to be served by the POLR?

2.2. Frequency of Updates

- a. Please comment on whether the posted FSR amount should be updated more frequently than twice per year (such as monthly or quarterly) to account for market volatility and changes in energy prices, and if so, whether

³ See Decision (D.) 18-05-022 at 12; also, Appendix 1 of D.13-01-021 (as corrected by D.13-02-017 and D.13-04-001).

any corresponding changes should be made to the 10% deadband approved in D.18-05-022.⁴

- b. Alternately, should the FSR calculation be modified to provide a six-month procurement forecast period (e.g. Dec-May, Jan- June, May-October, etc.) that accounts for seasonal variation? For instance, should the six-month procurement cost forecast reflect the max or average of the six of the next twelve months that reentry fee may need to cover?

2.3. FSRs for ESPs and CCAs

- a. Should the FSR for ESPs be updated to use third-party financial instruments, consistent with the requirements established in D.18-05-022 and Resolution E-5059? Why or why not?
- b. Notwithstanding the calculation of minimum administrative costs above, should the FSR for ESPs and CCAs follow the same methodology, calculator, and posting requirements? Why or why not?

2.4. Accessing the FSR

- a. Upon notification of a load-serving entity's failure/market exit, does the process adopted in Resolution E-5059 make FSR funds available in a timely enough fashion to provide the necessary liquidity for short-term procurement? If not, what changes are necessary?

3. Schedule

The schedule for Phase 1 of this proceeding is amended to reflect the request for party comment on the FSR and reentry questions in Section 2 of this ruling, the development of an Energy Division Staff Proposal, and the issuance of a single Commission decision addressing all Phase 1 issues. In addition, and as set forth below, the remaining schedule is amended to include a workshop, and opportunity for party comment, on the Energy Division Staff Proposal, as well as

⁴ See D.18-05-022 OP 8.

a workshop for the Investor-Owned Utilities to walk through potential/example changes to the FSR calculator. This ruling does not otherwise amend the scoping issues to be determined as part of Phase 1 of this proceeding.

The remaining Phase 1 activities and dates are reflected in the schedule table below:

<i>Phase 1: POLR Service Requirements, Cost Recovery, & Customer Migration</i>	
Event	Date
Opening Comments Filed and Served on FSR, Reentry Fee, and Deregistration Questions	May 26, 2022
Reply Comments Filed and Served on FSR, Reentry Fee, and Deregistration Questions	June 10, 2022
Energy Division Staff Proposal on Phase 1 Issues	July 2022
Workshop on Energy Division Staff Proposal	August 2022
Workshop on Potential/Example Changes to FSR Calculator	August 2022
Opening Comments Filed and Served on Energy Division Staff Proposal/Potential Changes to FSR Calculator	September 2022
Reply Comments Filed and Served on Energy Division Staff Proposal/Potential Changes to FSR Calculator	September 2022
Rule 13.9 Joint Case Management Statement with request for evidentiary hearings and/or briefs	10 calendar days from the submission of Reply Comments on the Energy Division Staff Proposal/Potential Changes to FSR Calculator
Evidentiary Hearings (if needed)	Q4 2022
Opening Briefs (if needed)	Q4 2022
Reply Briefs (if needed)	Q4 2022
Phase 1 Proposed Decision	Q4 2022 – Q1 2023

The amended Phase 1 schedule is intended to further develop the record in this proceeding while promoting the efficient use of party and Commission

resources. In addition to examining potential modifications to the current FSR methodology and reentry fees, in reply comments several parties identified issues that would benefit from further development and/or an Energy Division straw proposal.⁵ Many of these issues are the focus of the questions presented in Section 2 of this ruling, or are anticipated to be further developed through the Energy Division Staff Proposal and one or more workshops. The issuance of a single Phase 1 decision in this proceeding is also expected to help focus party and Commission resources, reflects the interrelated nature of the issues being considered, and is not otherwise expected to delay the conclusion of this phase of the proceeding.

IT IS RULED that:

1. Comments on the questions in Section 2 of this ruling shall be filed and served no later than May 26, 2022.
2. Reply comments on the questions in Section 2 of this ruling shall be filed and served no later than June 10, 2022.
3. The remaining schedule for Phase 1 of this proceeding is modified as shown in Section 3 of this ruling.

⁵ See, for example, Southern California Edison Company Reply Comments at 3; San Diego Gas & Electric Company Reply Comments at 5-6; Pacific Gas & Electric Company Reply Comments at 7 and 13; the California Community Choice Association Reply Comments at 5-6 and 9; the Direct Access Customer Coalition, Regents of the University of California, and Alliance for Retail Energy Markets Reply Comments at 4; the Public Advocates Office Reply Comments at 5-6; The Utility Reform Network Reply Comments at 2-3; and the Utility Consumers' Action Network Reply Comments at 4-5.

4. The assigned Commissioner or Administrative Law Judge may adjust this schedule further, as necessary, for efficient management and fair resolution of this proceeding.

Dated May 2, 2022, at Sacramento, California.

/s/ DARCIE L. HOUCK

Darcie L. Houck
Assigned Commissioner

/s/ EHREN D. SEYBERT

Ehren D. Seybert
Administrative Law Judge